

AMENDMENTS TO THE DRAWINGS

Please add new Figures 10 and 11 submitted herewith.

REMARKS

Undersigned counsel for Applicants wishes to thank the Examiner for extending the courtesy of a telephonic interview on December 01, 2005 to briefly discuss the contents of the Final Office Action and this Amendment. In particular, the term "angled surface" of the inventive applicator head was discussed. Applicants further thank the Examiner for indicating that the claims presented with this submission would be considered favorably.

Status of the claims

Claims 1-8 and 10-33 were pending in this application. Claims 1, 17, 23, 30 and 31 have been amended and claims 34-36 have been newly added. Claims 16, 21 and 32 have been canceled. Thus, upon entry of this Response, claims 1-8 and 10-15, 17-20, 22-31 and 33-36 will remain pending and under active consideration.

Amendments

The independent claims 1, 17 and 23 have been amended to recite, in part, an applicator head having "two angled surfaces, the surfaces joining at a midpoint of a face of the applicator head." Support for this amendment may be found, at least, in the Summary of the Invention and original claims 16, 21 and 32. New dependent claims 34 and 36 are directed to an label application system with an applicator head having two angled surfaces that join at a midpoint of a face of the applicator head and "form an angle of about 170 ± 4 degrees." Support for this newly claimed subject matter can be found throughout the specification, as filed, and in particular, at page 4, paragraph [0039] of the published application. Support for new dependent claim 36 may be found in the description of printers in page 2, paragraph [0023], which are well known to use either a direct thermal or thermal transfer process.

New FIGS. 10 and 11 have been entered to better show the angle θ_α as described in the specification. Consequently, the specification has also been amended to briefly describe the drawings and correct figure numbering. Accordingly, Applicants respectfully submit that no new matter has been incorporated through any of these amendments.

Drawing objections

The drawings have been objected to under 37 C.F.R. § 1.83(a) for failing to show the angle θ_α as described in the specification. Applicants thank the Examiner for indicating that

FIG. 12 of co-pending Application 10/845,244 ("the '244 application) shows this angle. Accordingly, Applicants have entered FIG. 12 from the co-pending application renumbered as FIG. 11 herein. As discussed in the interview, Applicants have also introduced FIG. 10, which is identical to FIG. 11 in the '244 application, to provide another view of the applicator head for additional clarity. Hence, Applicants respectfully submit that the objection to the drawings have been overcome and kindly request withdrawal of the objection.

Claim objections

Claims 30 and 31 have been objected to because, the Examiner notes, they should depend from system claim 23 instead of method claim 22. Applicants again thank the Examiner for noting the inadvertent clerical error and have amended the noted claims. Thus, Applicants respectfully submit that the objections to the claims have also been rendered moot and request withdrawal of the same objections.

Examiner's response to arguments

Applicants wish to thank the Examiner for withdrawing the prior rejection of claims 9, 10, 20 and 30 under 35 U.S.C. § 112, second paragraph, as being indefinite, and claims 17-26 under 35 U.S.C. § 101, for double patenting. Applicants further thank the Examiner for withdrawing his objections to the specification.

Double patenting

Claims 1-8, 11-27, 29 and 32 have been provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-6, 8-12, 14-17 and 19-23 of the '244 application for the reasons stated in item (4) of the Office Action. Applicants respectfully traverse this rejection on the grounds that the Examiner has not adequately demonstrated that the pending claims are not, in fact, patentably distinct from each other.

However, in the interest of speeding prosecution of the present application, Applicants submit herewith a Terminal Disclaimer in compliance with 37 C.F.R. § 1.321(c) to overcome the rejection.¹ Applicants note respectfully that "the filing of a terminal

¹ A Recordation Form has been concurrently submitted to the Assignment Division, Office of Public Records to record the assignment of the instant application from Convergent Label Technologies, Inc. to Backward Integration, Inc. Assignment of the '244 application to Backward Integration, Inc. has already been recorded. Thus, both the instant application and the '244 application are "commonly owned."

disclaimer to obviate a rejection based on nonstatutory double patenting is not an admission of the propriety of the rejection." M.P.E.P. §804.02(II). Applicants hereby submit that the obviousness-type double patenting has been rendered moot.

Claim rejections under 35 U.S.C. § 103

All of the claims stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the stated combinations of USP Nos. 6,199,614 ("Snyder") and/or 6,024,149 ("Bernhard") in view of USP Nos. 3,436,294 ("Marano"); 3,682,743 ("Cleary"); 6,220,330 ("O'Brien"); or 5,853,530 ("Allen") for the reasons stated in items (6)-(13) of the Office Action. Applicants respectfully traverse these rejections.

In order to properly establish a *prima facie* case of obviousness, each and every element of the claimed invention must be found in one or more of the combined references. With respect to the instant rejections, even assuming that the combination of the references were proper, Applicants submit that each limitation of the claimed invention cannot be found in any of the cited art, alone or in combination. Specifically, the cited art provides no teaching or suggestion of an applicator system comprising an applicator head having two angled surfaces, the surfaces joining at a midpoint of a face of the applicator head. Therefore, a proper rejection under § 103 cannot be properly sustained.

Applicants respectfully submit that the claims, as amended, are not rendered obvious by any of the cited art. Accordingly, Applicants respectfully request withdrawal of same rejections.

CONCLUSION

Applicants respectfully submit that the present application is in condition for issuance. Should there be any questions, the Examiner is kindly requested to contact the Applicants' agent, Sunit Talapatra, by telephone at (202) 625-3585. All correspondence should continue to be directed to the address given below.

AUTHORIZATION

The Commissioner is hereby authorized to charge any fees due in connection with this filing to Deposit Account 50-1710 or credit any overpayment to same.

Respectfully submitted,



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Enclosure: 2 New Drawing Sheets (Figures 10 and 11)

Date: December 08, 2005

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